

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3143 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

BHARATSINH R JADEJA

Versus

DIRECTOR-GUJ AGRICULTURAL UNIVERSITY

Appearance:

1. Special Civil Application No. 3143 of 1991
MR PH PATHAK for Petitioners.
Mr. H.J. Shah for Mr. J.G. Shah for Respondents.

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 17/09/2004

ORAL JUDGEMENT

Heard Mr. P.H. Pathak, learned advocate for the petitioners and Mr. H.J. Shah for Mr. J.G.Shah for the

respondents. In this petition, in all five workmen are there namely (1) Abdreman Alimamar Bakali, (2) Bharatsinh Ratubha Jadeja, (3) Rajendrasinh Gulabsinh Jadeja; (4) Alimamar Mithu Bakali, (5) Ismail Mithu Bakali, as per page 10, Annex.A to the petition.

The present petition has been filed with a prayer for regularization of the services of the said workmen from the date of their appointment and other benefits of wages. Initially, on 8th October, 1991, this court passed the following order:

"In this matter, no one appear for the respondent to oppose the interim relief in the second sitting even though Mr. Shah had appeared in the first sitting when the matter was adjourned to the second sitting. Ad.interim relief granted earlier is therefore made absolute to the effect that the respondents are restrained from terminating the services of the employees listed at Annexure 'A', save and except in accordance with law. They are further directed to pay to the concerned employees minimum wages of the time scale available to Class IV Regular employees with permissible allowance. The amount worked out on that basis shall be divided by 26 days and shall be made available to the concerned employees covered by this order on per day basis. Direct service permitted. This order about payment of daily wages is made operative with effect from 1st October, 1991. DS Permitted."

Thus, by the aforesaid order, ad.interim relief granted earlier was made absolute to the effect and the respondents were restrained from terminating the services of the employees listed at Annexure 'A', save and except in accordance with law and were further directed to pay to the concerned employees minimum wages of the time scale available to Class IV Regular employees with permissible allowance. It was also ordered that the amount worked out on that basis shall be divided by 26 days and shall be made available to the concerned employees covered by this order on per day basis. Said interim relief granted by this Court by order dated 8.10.1991 has continued and remained in operation till this date.

During the pendency of this petition, the apex court has examined the very same issue in respect of the Gujarat Agricultural University in case of GUJARAT AGRICULTURAL UNIVERSITY V. RATHOD LABHU BECHAR reported

in AIR 2001 SC 706.

Learned advocate Mr. Shah submits that these workmen are covered by the decision of the apex court in AIR 2001 SC 706 and therefore, benefits available under the scheme have already been granted by the respondent University in favour of four workmen, barring one workmen namely Ismail Mithu Bakali, with effect from 1st January, 2001. He pointed out difficulty about the interim relief granted by this court wherein minimum time scale of Class IV Category has been granted. Therefore, he submitted that these workmen are not entitled to avail grade of Class IV Category, even though, their services have been regularized w.e.f. 1st January, 2001 and to that effect, necessary orders have already been passed by the respondent university. He has produced the letter dated 10.6.2002 addressed by the University to the learned advocate Mr. Shah and the notification of the University. Same are ordered to be taken on record of this petition. From perusal of the said letter and notification, it appears that except the workman Ismail Mithu Bakali, four workmen have been given benefit of the scheme w.e.f. 1st January, 2001 and, therefore, it was submitted that the University will consider the case of the said workman Ismail Mithu Bakali as per the decision of the apex court and the university will pass appropriate order provided that the workman Ismail Mithu Bakali is in service of the University and falling within the four corners of the scheme.

In view of these facts, considering that the benefits which are available to the workmen as per the apex court decision in AIR 2001 SC 706 have already been granted by the University in respect of four workmen, except the workman Ismail M. Bakali and also considering the interim relief granted by this Court on 8th October, 1991 wherein the respondents were directed to pay Minimum pay in the time scale available to Class IV employees which has continued and remained in operation till this date, in light of the subsequent development because of the apex court decision referred to above, the services of the said workmen have already been regularized and therefore now it is not necessary to continue operation of the interim order dated 8.10.91. However, since it has continued till this date, it is directed to the respondents not to recover any amount which was paid by the respondents to the workmen in view of the interim order of this Court. It is also directed to the respondent University to consider the case of the workman Ismail M. Bakali as per the apex court decision in AIR 2001 SC 706 and to pass appropriate order in accordance

with law provided that he is working with the University.
With these observations and directions, this petition is
disposed of. Rule is made absolute in aforesaid terms
with no order as to costs.

(H.K. Rathod, J.)

Vyas